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IMPLEMENTATION OF THE PROGRAMME OF ACTION FOR THE THIRD DECADE TO COMBAT RACISM AND RACIAL DISCRIMINATION

Report of the Secretary-General

CONTENTS

		Paragraphs	Page
Introduction		1	2
I.	IMPLEMENTATION OF THE PROGRAMME OF ACTION IN THE UNITED NATIONS SYSTEM	2 - 4	2
	A. General Assembly	3	2
	B. World Food Programme	4	2
II.	INFORMATION RECEIVED FROM GOVERNMENTS	5 - 26	3
	A. Argentina	5 - 7	3
	B. Spain	8	3
	C. Greece	9 - 12	4
	D. Kuwait	13 - 26	5
III.	OTHER	27	9
Annex:	Act No. 24,515 establishing the National Institute to combat discrimination, xenophobia and racism (INADI) in Argentina		10

Introduction

1. This report was prepared pursuant to paragraph 22 of Commission on Human Rights resolution 1995/11. It supplements the reports by the Secretary-General to the Economic and Social Council at its substantive session of 1995 (E/1995/111) and to the General Assembly at its fiftieth session (A/50/493).

I. IMPLEMENTATION OF THE PROGRAMME OF ACTION IN THE UNITED NATIONS SYSTEM

2. It should be noted at the outset that a lack of human and material resources prevented the Centre for Human Rights from beginning the implementation of the plan of activities for the first third of the Third Decade to Combat Racism and Racial Discrimination (1994-1997), as it appears in the report of the Secretary-General to the substantive session of 1994 of the Economic and Social Council (E/1994/97).

A. General Assembly

3. At its fiftieth session, the General Assembly considered the implementation of the Programme of Action for the Third Decade to Combat Racism and Racial Discrimination and adopted resolution A/C.3/50/L.6 (provisional numbering). In the resolution, the General Assembly stated that it was deeply concerned about the fact that the phenomenon of racism and racial discrimination against migrant workers continued to increase despite efforts undertaken by the international community to improve the protection of the human rights of migrant workers and members of their families; the General Assembly also requested the Secretary-General to consult Member States and intergovernmental and non-governmental organizations on the possibility of holding a world conference to combat racism, racial discrimination, xenophobia and other related contemporary forms of intolerance; it noted that, unless a supplementary financial effort was made, very few of the activities planned for the 1994-1997 period would be carried out.

B. World Food Programme

4. The World Food Programme provided the following statement:

> "Programmes, both development and relief, are planned and implemented on strict conditions of racial equality and non-discrimination. Inasmuch as our relief operations are all-embracing, victims of racial discrimination, if affected by food shortages, would be part of the beneficiary groups such as refugees or internally displaced persons and would automatically have access to WFP food aid, if covered by a Government request or under United Nations auspices. As an example, the Rwandan refugees in Zaire, Burundi and Tanzania could be considered victims of racial discrimination or at least they feel threatened by such discrimination. They receive WFP assistance on a large scale.

Apart from such programmes, however, we do not have specific projects designed in favour of victims of racial discrimination. In principle, this could be done if large groups exist that require such assistance and we would be happy to consider any proposals that your Organization may wish to make."

II. INFORMATION RECEIVED FROM GOVERNMENTS

A. Argentina

5. The Argentine Government states that on 5 July 1995 the Congress adopted Act No. 24,515 establishing the National Institute to Combat Discrimination, Xenophobia and Racism (INADI), as a decentralized entity under the Ministry of the Interior (see annex). The purpose of the Institute is to develop national policies and practical means of combating discrimination, xenophobia and racism and of encouraging and carrying out initiatives to that end.

6. Under Act No. 24,515 the Institute has broad functions:

(a) Prevention: disseminating the prevailing principles and legal standards on non-discrimination and informing public opinion;

(b) Education: planning and promoting educational campaigns;

(c) Investigation: receiving, centralizing and recording complaints relating to discriminatory, xenophobic or racist behaviour;

(d) Services: counselling victims, providing free protection; advising the Public Prosecutor's Office on issues within its purview;

(e) Documentation: collecting and updating information on relevant domestic, international and comparative law; establishing its own documentation register;

(f) Cooperation: establishing ties with other bodies sharing the same objectives; concluding conventions.

7. As regards the presence in the national territory of individuals who, during or after the Second World War, allegedly took part in the extermination of peoples or the killing and persecution of individuals on grounds of race, religion, nationality or political opinions, the Act provides that the Institute may: verify their existence, promote and institute legal and administrative proceedings when it has sufficient evidence to do so and propose the signing of new extradition treaties.

B. Spain

8. In a note dated 15 May 1995, the Spanish Government drew the attention of the Secretary-General to its thirteenth periodic report to the Committee on the Elimination of Racial Discrimination; the report deals with the following points in particular:

(a) Measures adopted on behalf of the Gypsy community;

(b) The situation of the Muslims in Ceuta and Mellilla;

(c) The scope of Organization Act No. 7/1985 of 1 July on the rights and duties of aliens in Spain;

(d) The steps taken by the Ministry of Justice and the Interior to prevent and punish acts of racism and xenophobia;

(e) The draft Act relating to the organization of the Penal Code, with the proposed amendments to the Code for the punishment of racism and genocide.

Since this information has already been published, the members of the Commission are referred to document CERD/C/263/Add.5.

C. Greece

9. The Greek Ministry of Public Order has proceeded to the adoption of appropriate measures in all fields (legal, administrative, training and information) to combat racism and racial discrimination. To this end, it implements European and international conventions dealing with the protection of human rights and fundamental freedoms, namely:

(a) International Convention on the Elimination of All Forms of Racial Discrimination (Legislative Decree 494/1970);

(b) European Social Charter (Law 1426/1984);

(c) International Convention for the Protection of Human Rights and Fundamental Freedoms (Rome, 4 November 1950) and its Additional Protocol of Paris dated 3 March 1952 (Law 2329/1953);

(d) Protocol No. 7 of the Convention for the Protection of Human Rights and Fundamental Freedoms signed in Strasbourg on 22 November 1984 (Law 1705/1987);

(e) Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Law 1982/1988);

(f) European Convention on the Prevention of Torture and Inhuman Treatment or Punishment (Law 1949/1991).

10. Greek legislation regarding issues related to foreigners (Law 1975/91) is adapted to the requirements of today.

11. Furthermore, the texts of the following international conventions and declarations, as well as of domestic laws relating to the respect of human rights, are included in the curricula of police schools and taught:

(a) Universal Declaration of Human Rights;

(b) European Convention for the Protection of Human Rights and Fundamental Freedoms (art. 3);

(c) International Covenant on Civil and Political Rights (art. 7);

(d) Declaration on the Protection of All Persons from being subjected to Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (adopted by General Assembly resolution 3452 (XXX) of 9 December 1975;

(e) Standard Minimum Rules for the Treatment of Prisoners (approved by the Economic and Social Council by its resolution 663 C (XXIV) of 31 July 1957) (arts. 31, 32 and 33);

(f) Code of Conduct for Law Enforcement Officials (adopted by General Assembly resolution 34/169 of 17 December 1979);

(g) Declaration of Deontology Rules for the Police (resolution 690 of the Parliamentary Assembly of the Council of Europe, 1979);

(h) Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (Law 1949/1991);

(i) The 12-point programme for the prevention of torture (Amnesty International, 1984);

(j) Provisions of the Constitution and other legislative texts for the protection of individual freedoms;

(k) Provisions referring to individual, civil, social and other human rights.

12. In the teaching of "police practice", a special chapter is included and extensively analysed, which refers to the presence of police in public gatherings. Useful knowledge relating to the general behaviour of policemen vis-à-vis citizens is provided to students at police academies through the teaching of "professional-social conduct", as well as lectures by members of the Greek Committee of Amnesty International. Besides knowledge provided during basic training in the police academies, similar lessons are offered within the framework of training seminars for police personnel at all levels. In the 1995 training programme for the police and civilian personnel, training seminars for police personnel are included on the subject of "racism-xenophobia".

D. Kuwait

13. The Kuwaiti Government has taken note of resolution 49/146, entitled "Third Decade to Combat Racism and Racial Discrimination", adopted by the General Assembly on 23 December 1994. It would like first of all to reaffirm its commitment to the principles and objectives contained in that resolution, which is aimed at strengthening international cooperation in combating and eliminating racial discrimination in any form.

14. In view of the foregoing, below are a few general observations of the Kuwaiti Government on certain provisions of the above-mentioned resolution on the elimination of racial discrimination and some of the legislative and administrative measures recently taken to strengthen human rights in Kuwait.

15. Kuwait welcomes the proclamation of the Third Decade to Combat Racism and Racial Discrimination and wishes to reaffirm its determination to cooperate with the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance. It continues to cooperate fully with the Committee on the Elimination of Racial Discrimination, in accordance with the International Convention on the Elimination of All Forms of Racial Discrimination, adopted in 1965, which Kuwait was one of the first States to ratify. As one form of this cooperation, the Kuwaiti authorities submit periodic reports to the Committee (see para. 17). It also engages in other forms of cooperation that reflect the importance Kuwait attaches to its relations with the Committee.

16. Although it fully subscribes to the provisions of paragraph 4 of resolution 49/146, Kuwait would like to reaffirm that racial discrimination, in both its traditional and contemporary forms, has never existed in our country. In that connection, the Kuwaiti authorities have taken many steps to strengthen human rights in the last two years. These steps are described below. As regards paragraph 7 of the resolution, it should be noted that although Kuwait is not a party to the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, Kuwait's employment legislation guarantees workers residing in Kuwait the required legal and physical protection. Concerning paragraph 9 of the resolution, the provisions on the treatment of indigenous people do not apply in the case of Kuwait since the Kuwaiti population is demographically and socially homogeneous and there is no separation between any supposedly indigenous group and the rest of the population.

17. Kuwait has regularly submitted periodic reports to the Committee on the Elimination of Racial Discrimination; its latest report (CERD/C/226/Add.5) dated 11 January 1993 contains a detailed analysis of the provisions of the Kuwaiti Constitution and legislation on the elimination of racial discrimination and of the specific steps taken by the State of Kuwait in this area. When the Committee considered the report of Kuwait, on 9 August 1993, the representative of Kuwait replied to the questions raised by the members of the Committee on certain aspects of the human rights situation in Kuwait, such as the case of migrant workers, foreigners in irregular situations, people who left Kuwait after it was liberated, domestic employees and questions relating to nationality.

18. In order to strengthen the human rights situation in the country, Kuwait has in recent years adopted numerous legal and administrative measures at the national and international levels, some of which are described below.

1. Steps taken at the national level

19. The Kuwaiti authorities have adopted Act No. 44 of 1994, adding a new paragraph to article 7 of Amiral Decree No. 15 of 1959 relating to Kuwaiti nationality. The paragraph states that children whose father was naturalized

before their birth are automatically Kuwaitis, and this provision also applies to children born before the Act entered into force. There is no doubt that this is a positive step that will result in the elimination of an inconsistency in the Nationality Act and expand the electorate.

20. With regard to illegal immigrants, attention is drawn to Decree No. 221 of 1993 establishing a central commission to examine the cases of individuals in irregular situations. This commission is responsible for giving effect to decisions adopted by the Council of Ministers on illegal immigration and taking the appropriate steps, on the basis of the results of the general census of individuals in irregular situations, in accordance with the national legislation and in the public interest. The commission, which pursuant to the Decree has a three-year mandate, is already operational.

21. Thanks to efforts aimed at improving the status of women, Kuwaiti women are now able to work and enjoy the same rights as those guaranteed to men by the Constitution, in particular the right to education and the right to work. According to the statistics, nearly 30 per cent of the Kuwaiti working population is made up of women. Women now have access to many important posts in the State administration, as attested by the appointment of the first woman ambassador of Kuwait, the first woman dean of the University, the first woman Deputy Minister of Higher Education and the first women Under-Secretaries in a number of ministries.

22. The Kuwaiti State makes every effort to ensure that domestic employees enjoy decent living conditions. A number of steps have been taken to provide them with the necessary legal protection. For example, a new service called the Directorate of Domestic Employee Placement Bureaux has been established within the Ministry of the Interior with the aim of restructuring such bureaux and guaranteeing the rights of domestic employees both during their employment and after their contract has expired. The Kuwaiti authorities accordingly adopted Act No. 40 of 1992 on the reorganization of private placement bureaux and their services, in order to guarantee the rights of domestic employees.

23. Efforts made in the field of human rights have not been limited to the executive branch. The legislative branch has also made its contribution. The National Assembly has established a Committee for the Defence of Human Rights, which is responsible in particular for protecting human rights, monitoring human rights cases, receiving complaints and observations on practices relating to human rights, finding appropriate solutions to the cases that are submitted and ensuring follow-up by the competent authorities.

2. Steps taken at the international level

24. Kuwait has always made a point of becoming a party to the various international human rights instruments, in particular those that deal with the elimination of racial discrimination. It has ratified the International Convention on the Elimination of All Forms of Racial Discrimination and the International Convention on the Suppression and Punishment of the Crime of Apartheid. Its efforts have not ended there, since it recently acceded to the Convention on the Elimination of All Forms of Discrimination against Women, pursuant to Decree No. 24/94 of 17 January 1994. In accordance with the

provisions of article 70 of the Kuwaiti Constitution, as soon as an international instrument is ratified, it acquires force of law in the country, and all the competent authorities are bound to observe it and enforce its provisions.

25. Kuwait's activities in the field of human rights at the international level are not limited to the legal aspect. Efforts are being made in all areas to combat and eliminate racial discrimination; in all international forums, the Kuwaiti authorities constantly emphasize the need to guarantee equality among human beings. Fully convinced that racial discrimination is a serious violation of the human rights and fundamental freedoms guaranteed by national legislation and international conventions, Kuwait supports all efforts made at the international level to eliminate racial discrimination, a practice that is contrary to the fundamental values and principles of civilized societies, which reject this phenomenon in all its forms.

26. At its meeting of 24 October 1992, the Kuwaiti National Assembly established a parliamentary Committee for the Defence of Human Rights, to be composed of seven of its members. This step is a reflection of the Assembly's interest in this important area, which is one of the foundations of a modern State based on justice and the rule of law. In conformity with the fundamental principles of Islam, the provisions of the Kuwaiti Constitution and the Universal Declaration of Human Rights, the Committee has the following functions:

(a) To study the legislation in force - in particular the criminal laws and prison laws and regulations, with a view to making them above reproach as far as civil and political rights are concerned, and to submit proposals for amending them to ensure effective human rights guarantees;

(b) To verify that the minimum standards are observed in the treatment of suspects and prisoners and that their dignity is respected;

(c) To monitor the work of governmental agencies to ensure that they are fully committed to human rights;

(d) To cooperate with welfare associations in order to help develop an understanding of human rights;

(e) To organize symposia and conduct studies and research on human rights and to establish a specialized library containing all legal and constitutional documents relating to human rights at the national and international levels;

(f) To strengthen relations with the international organizations, with administrative and legislative authorities in countries throughout the world and other organizations concerned with human rights with a view to exchanging data and prosecuting human rights violations on an international scale, and to participate in international meetings on human rights;

(g) To receive all complaints and observations concerning practices relating to human rights and to work towards finding appropriate solutions in cooperation with the governmental authorities concerned.

The Committee works in close cooperation with national and international human rights authorities and organizations.

III. OTHER

International Criminal Police Organization

27. Interpol notes that its Constitution, which refers to the Universal Declaration of Human Rights, strictly forbids "the Organization to undertake any intervention or activities of a [...] racial character". That concretely means that Interpol shall not give any assistance when an individual is pursuing for the only reason of his race or his belonging to an ethny. Furthermore, Interpol gives assistance to the repression of the crime of genocide. At the present time, the Organization actively cooperates with the International Criminal Tribunal for the Former Yugoslavia.

Annex

ACT NO. 24,515 ESTABLISHING THE NATIONAL INSTITUTE TO COMBAT DISCRIMINATION, XENOPHOBIA AND RACISM (INADI) IN ARGENTINA

The Senate and Chamber of Deputies of the Argentine nation, meeting in joint session, etc., approve, with force of law, the following:

CHAPTER I

ESTABLISHMENT, PURPOSE AND DOMICILE

ARTICLE 1

There shall be established a National Institute to Combat Discrimination, Xenophobia and Racism (INADI), as a decentralized body attached to the Ministry of the Interior.

ARTICLE 2

The purpose of INADI shall be to devise national policies and specific means of combating discrimination, xenophobia and racism, and to encourage and carry out initiatives to that end.

ARTICLE 3

The headquarters of INADI shall be in Buenos Aires.

CHAPTER II

RESPONSIBILITIES AND FUNCTIONS

ARTICLE 4

INADI is responsible for:

(a) Acting as the agency for implementing this Act and for ensuring that it is applied and that its objectives are achieved by analysing the situation in the country relating to discrimination, xenophobia and racism, and preparing reports and proposals on these matters;

(b) Disseminating the principles laid down in Act No. 23,592 and its related and supplementary regulations, as well as the results of the studies it conducts or sponsors and the proposals it formulates;

(c) Planning and encouraging educational campaigns aimed at enhancing social and cultural pluralism and eliminating discriminatory, xenophobic or racist attitudes; participating in such campaigns;

(d) Collecting and updating information on international and foreign law in the field of discrimination, xenophobia and racism; studying such documents and preparing comparative reports on them;

(e) Receiving, collating and recording complaints of discriminatory, xenophobic or racist behaviour;

(f) Establishing a register of all documents and evidence relating to INADI's objectives;

(g) Providing a complete advisory service free of charge to individuals or groups that are victims of discrimination, xenophobia or racism;

(h) Providing free assistance, and, at the request of the interested party, asking to see legal or administrative documents relating to issues within its competence;

(i) Providing the Public Prosecutor's Office and the courts with specialized technical advice on issues within its competence;

(j) Informing the public of discriminatory, xenophobic and racist attitudes and behaviour in any area of national life, especially in the fields of education, health, social welfare and employment, whether by the public authorities or private entities or individuals;

(k) Establishing prima facie the presence on Argentine territory of individuals who, during or after the Second World War, took part in the extermination of peoples or the killing and persecution of individuals or groups of people on grounds of race, religion, nationality or political opinion, and filing complaints with the competent authorities, if necessary;

(l) Promoting and implementing, when there is sufficient evidence and in conformity with the provisions of article 43 of the national Constitution, the appropriate legal and administrative proceedings in the case of individuals referred to in subparagraph (k) above;

(m) Establishing ties of cooperation with public or private, national or foreign agencies sharing the same objectives as those pursued by the Institute;

(n) Proposing the conclusion of new extradition treaties to the competent body;

(o) Concluding conventions with public or private, national or international entities, with a view to the full realization of the Institute's objectives.

ARTICLE 5

INADI may request permission from the General Archives of the Nation and all the national and provincial State agencies to consult and photocopy documents attesting to the presence on Argentine territory of individuals who, during or after the Second World War, took part in the extermination of peoples or the killing and persecution of individuals or groups of people on grounds of race, religion, nationality or political opinion.

CHAPTER III

AUTHORITIES

Section 1 - Organs

ARTICLE 6

INADI shall be directed and administered by a board of directors, assisted by an advisory council.

Section 2 - Board of Directors

ARTICLE 7

The Board of Directors shall be made up of nine members: one (1) Chairman, one (1) Vice-Chairman and seven (7) directors.

ARTICLE 8

The Chairman and Vice-Chairman shall be designated by the Executive on the proposal of the National Congress.

ARTICLE 9

The Board of Directors shall be made up of seven members. Four directors shall represent the Executive, one for each of the following ministries: Interior; Foreign Affairs; International Trade and Worship; Justice and Education. These posts shall be held by under-secretaries from each ministry, appointed by the respective ministers.

The three remaining directors shall represent non-governmental organizations recognized for their human rights work, against discrimination, xenophobia and racism, which are listed in a special public register kept by the Ministry of the Interior in accordance with the regulations. These organizations shall be designated by the Ministry of the Interior on the proposal of the non-governmental organizations appearing in the register provided for by this article, drawn at random. They shall have a term of four years.

ARTICLE 10

The task of the Board of Directors shall be to direct and supervise the activities of the Institute, and it shall be responsible for:

(a) Drawing up the Institute's plans and programmes of activities;

(b) Establishing research and training centres, granting fellowships and encouraging the conducting of studies and surveys relating to the Institute's objectives;

(c) Adopting its rules of procedure and setting forth rules for the administrative and substantive management of the Institute;

(d) Proposing the annual budget, calculating resources and returns on investments and submitting them to the competent authorities for approval;

(e) Approving the report and general balance-sheet at the end of each financial year;

(f) Drafting and approving the rules of procedure of the Advisory Council;

(g) Authorizing, in conformity with the appropriate rules in force, service contracts for special tasks that cannot be performed by the Institute's staff.

ARTICLE 11

The Board of Directors shall meet at least once a month. It shall be convened by the Chairman, who shall use reliable channels to do so. At least five (5) members must be present for the Board of Directors to be able to meet and adopt decisions. Decisions shall be adopted by more than half the members present. In case of a tie the Chairman's vote shall count double.

Section 3 - Chairman and Vice-Chairman

ARTICLE 12

The Chairman shall have the following functions:

(a) Coordinating and conducting all the Institute's activities with a view to achieving, as fully as possible, the objectives laid down in Act No. 23,592, related and supplementary objectives, and those appearing in this instrument;

(b) Appointing, promoting, dismissing and disciplining Institute staff; assigning it tasks and monitoring performance;

(c) Administering the Institute's funds and keeping an inventory of all its assets, in conformity with the rules established by the Board of Directors and the relevant legislation in force;

(d) Acting as the legal representative of the Institute in all matters, being entitled for this purpose to delegate his functions to any member of the Board of Directors and to grant general or specific mandates;

(e) Convening and chairing the meetings of the Board of Directors, with the right to speak and the right to vote;

(f) Inviting the members of the Advisory Council and the representatives of the sectors concerned to take part in the meetings of the Board of Directors when issues relating to their field of activity are to be discussed;

(g) Proposing the plans and programmes of activities of the Institute to the Board of Directors, with the prior agreement of the Advisory Council;

(h) Proposing to the Board of Directors the establishment of new posts as well as changes to or the expansion or elimination of existing posts, and the conclusion of conventions that are in keeping with the Institute's objectives;

(i) Preparing proposals and documents on all other issues within the competence of the Board of Directors; he shall be empowered to take decisions alone when their urgency so requires, but must report thereon to the Board of Directors at its first subsequent meeting;

(j) Preparing and proposing to the Board of Directors, for approval, the rules of procedure of the Advisory Council;

(k) Proposing the Institute's organization chart to the Board of Directors;

(l) Performing any other duties or functions which the Board of Directors may delegate or entrust to him.

ARTICLE 13

The Vice-Chairman shall assume the functions which the Chairman delegates or entrusts to him and shall replace him in case of absence or inability, or when the post is vacant.

Section 4 - Advisory Council

ARTICLE 14

The Advisory Council shall be made up of no more than ten (10) members who shall perform their duties on an honorary basis. They shall be designated by the Ministry of the Interior for a mandate of four (4) years.

The persons designated shall be representatives of non-governmental organizations known for their work in support of human rights and against discrimination, xenophobia and racism.

The membership of the Advisory Council shall reflect the diversity of fields or sectors affected by problems relating to discrimination, xenophobia and racism.

ARTICLE 15

The role of the Advisory Council shall be to advise the Board of Directors in matters within the competence of INADI, in the course of consultation or on its own initiative.

CHAPTER IV

RESOURCES

ARTICLE 16

INADI shall be financed by:

(a) The credits allocated to it in the general budget of the nation, item 30 - Ministry of the Interior;

(b) Any legacies or gifts it receives, which shall be exempt from any taxes, whatever their nature;

(c) All contributions or subsidies in cash or in kind from official or private entities, in respect of equipment, operating costs or programmes of activities;

(d) Interests or income from its property, proceeds from the sale of its publications or the transfer of intellectual property rights;

(e) Any other type of income compatible with its nature and objectives.

CHAPTER V

FINAL PROVISIONS

ARTICLE 17

The Institute established under this Act shall continue the work currently being conducted under the "Anti-Discrimination Programme" of the Ministry of the Interior, of which it shall retain the property, staff, rights and obligations.

ARTICLE 18

The national executive power shall lay down regulations for this Act and take the necessary steps for INADI to be established and become operational within a period of no more than ninety (90) days from the date of promulgation of this Act.

The regulations shall stipulate the grounds for dismissal of members of the Board of Directors and the Advisory Council.

ARTICLE 19

This Act shall enter into force on the date of its promulgation.

ARTICLE 20

This Act shall be communicated to the national executive power.

Done at the Assembly Hall of the Congress of Argentina in Buenos Aires, on 5 July 1995.